

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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In The Matter of the Application of
San Diego Gas & Electric Company
(U902G) and Southern California Gas
Company (U904G) for a Certificate of
Public Convenience and Necessity for
the Pipeline Safety & Reliability Project.

A.15-09-013
(Filed September 30, 2015)

**MOTION FOR ORDER TO SHOW CAUSE WHY SOUTHERN CALIFORNIA
GAS COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY SHOULD
NOT BE FOUND IN VIOLATION OF COMMISSION RULE OF PRACTICE
AND PROCEDURE 1.1; TITLE 49 OF THE CODE OF FEDERAL
REGULATIONS SECTIONS 192.5 AND OTHER SAFETY REQUIREMENTS**

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I. INTRODUCTION

Pursuant to Rule 11.1 of the California Public Utilities Commission's (CPUC or Commission) Rules of Practice and Procedure (Rule or Rules), the Office of Ratepayer Advocates (ORA) files this motion requesting that the Commission issue an Order to Show Cause for why Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) (jointly SoCalGas/SDG&E or Applicants) should not be sanctioned for making misrepresentations and false statements regarding the traceability, verifiability, completeness and accuracy of its safety records to a panel of Commissioners and the Administrative Law Judge during oral argument on May 29, 2018 in Application 15-09-013. SoCalGas/SDG&E made incorrect and misleading statements regarding their safety records and the classification of Line 1600, a large natural gas transmission pipeline running from Fallbrook to the City of San Diego.¹ SoCalGas/SDG&E failed to identify that at least one area along Line 1600 should be identified as a Class 4 location as required by federal regulations, which is a class location with higher population density than currently is reflected in their records. Specifically, the Casa Mira View apartment complex, in Mira Mesa, a community within

¹ Line 1600 is a 16" natural gas transmission line, which was largely constructed in 1949, and runs from Rainbow Station in Fallbrook, to Mission Base in the City of San Diego.

San Diego, California has nearly two dozen five-story buildings with over 1,000 completed apartment units and is within 220 yards of Line 1600.² An elementary school and park are located directly across the street from the complex. This area should be recorded as a Class 4 location. However, the utilities' records and their representations to Commission staff are that there are no Class 4 locations along Line 1600.

Class 4 locations are defined by a prevalence of structures with four or more stories or levels. Federal regulations require that a pipeline identified as a Class 4 location must be inspected more frequently than those with lower Class locations to ensure the safety of the pipeline and surrounding communities.³ Moreover, SoCalGas/SDG&E are now refusing to provide ORA with safety information that would, among other things, confirm the frequency of their inspections on Line 1600.

Given the serious nature of this issue, a Commission Order to Show Cause is necessary to require the utilities' to explain their misclassification of this area of Line 1600. The Commission should fine SoCalGas/SDG&E for misclassifying the pipeline, which is a violation of federal regulations and may have serious implications regarding other safety measures such as the frequency of safety inspections of Line 1600.

II. DISCUSSION

A. Background

SoCalGas/SDG&E's general representations that their Line 1600 safety data is accurate is belied by the inaccurate class location data SoCalGas/SDG&E has provided to the Commission.⁴ Federal pipeline safety regulations set forth criteria that require pipelines to be assigned Classes 1 through 4 based on their locations. 49 CFR § 192.705 requires patrols on transmission lines in Class 3 locations at least twice per calendar year, and at intervals not exceeding seven and one half months. 49 CFR § 192.705 requires patrols on

² See Discussion Section for more information about the proximity of the Casa Mira View complex to Line 1600.

³ Class 4 locations are also required to have the greatest reduction in Maximum Allowable Operating Pressure (60%, which is a design factor of 0.4). (49 CFR 192.111). By contrast, Class 3 locations require only a 50% reduction in MAOP (design factor of 0.5). This means that a pipeline in a Class 4 location must be operated at a 10% lower MAOP (all else being equal) than a pipeline in a Class 3 location.

Class 4 locations are also required to have each point on the line with a valve no more than 2.5 miles. A Class 3 location, on the other hand, is only required to a valve every 4 miles. (49 CFR §192.179).

⁴ See 49 CFR § 192.5(a)(1). A "class location unit" is an onshore area that extends 220 yards (200 meters) on either side of the centerline of any continuous 1-mile (1.6 kilometers) length of pipeline.

transmission lines in Class 4 locations at least four times per calendar year, and at intervals not exceeding four and one half months. These patrols are designed to look for “indications of leaks, construction activity, and other facts affecting safety and operation.”⁵

Class locations identify the population density within 220 yards on either side of a one mile length of onshore pipeline.⁶ As a class location number increases, this indicates a greater population density within this 220 yard vicinity of the pipeline.^{7,8,9} Class 4 is the highest class location, and is the only class defined by the prevalence of structures with four stories/levels or more.¹⁰

B. Misrepresentations by SoCalGas/SDG&E

In response to at least five data requests issued by ORA and one data request issued by the Commission’s Safety and Enforcement Division, SoCalGas/SDG&E maintained at least six times between May 12, 2016 and May 22, 2017 that there are no Class 4 locations and that there are only Class locations 1, 2 or 3 on Line 1600. See Attachment 4.

In the following ex parte meetings with Commissioners’ offices, SoCalGas/SDG&E provided photos revealing that there are a number of four-story and higher buildings in the immediate vicinity of Line 1600:^{11,12}

⁵ See 49 CFR 192 § 705(a).

⁶ 49 CFR §192.5.

⁷ 49 CFR §192.5(b).

⁸ According to 49 CFR §192.5(a)(2), population density in class locations is measured by separate dwelling units that are intended for human occupancy. As a different way of measuring population density, Class 3 locations can also include well-defined outdoor areas, such as playgrounds or outdoor theaters, that have people assembled for certain periods of time.

⁹ See 49 CFR § 192.5. A Class 1 location has 10 or fewer buildings intended for human occupancy within the class location unit. A Class 3 location has 46 or more buildings intended for human occupancy within the class location unit; or an area such as a playground, that is occupied by 20 or more people on at least 5 days a week for any 10 weeks in a 12-month period.

¹⁰ See 49 CFR Section 192.5(b)(4). “A Class 4 location (the highest class location unit) is any class location unit where buildings with four or more stories above ground are prevalent.”

¹¹ See Attachment 2, pages 002 and 003, which shows excerpts from SoCalGas/SDG&E’s ex parte document communications, and is entitled “Attachment A Corrected Photo Captions, SDG&E and SoCalGas Presentation. Potential Replacement Scenario Options. Line 1600 ROW On-the-Ground Photos May 2018.”

¹² All information regarding meetings with commissioner offices are taken from SoCalGas/SDG&E’s May 29, 2018 revised notice of ex parte communication, except for information regarding the meeting with Commissioner Guzman Aceves’ office which was taken from the May 24, 2018 notice of ex parte communication with that office.

- May 23, 2018 – Dave Peck of President Picker’s Office;
- May 23, 2018 – Ehren Seybert of Commissioner Peterman’s Office;
- May 24, 2018 – Rachel Peterson of Commissioner Randolph’s Office;
- May 23, 2018 – Sean Simon, Yuliya Shmidt, and Sandy Goldberg of Commissioner Rechtschaffen’s Office;
- May 21, 2018 – Dave Gamson of Commissioner Guzman Aceves’ Office.

These photos prompted ORA to review whether SoCalGas/SDG&E accurately stated Line 1600’s class locations. On June 6, 2018, ORA staff conducted a site visit of locations along Line 1600, and specifically observed that the Casa Mira View apartment complex has nearly two dozen five-story buildings within 220 yards of Line 1600.¹³ The Casa Mira View complex is approximately ¼ of a mile in length, with well over 1,000 apartments units completed, and plans in place to have over 2,300 apartments in total. Initial occupancy began in 2012, and a significant number of apartments were completed by 2016.¹⁴ The western side of the apartments is bounded by Line 1600, and the line is just across the road to the east of the Hage Elementary School and Westview Park.¹⁵ Attachment 1 shows Line 1600 runs alongside the Casa Mira View complex, creating a higher density location than the Class 3 location identified by SoCalGas/SDG&E. The portion of Line 1600 adjacent to Casa Mira View should be categorized as a “Class 4” location.¹⁶ However, SoCalGas/SDG&E incorrectly represented on the record of this proceeding that there are no class locations greater than “Class 3” (lower density areas than Class 4) along the entire length of Line 1600.¹⁷ In the record of this proceeding, SoCalGas/SDG&E have over 123 entries with information identifying the class locations

¹³ The buildings are configured with a central, six story parking garage and approximately 12, five story buildings arranged in a ring around the outside of the parking garage. *See Attachment 3*, p. 006 for the description, and *see Attachment 1*, “Satellite 1” and “Satellite 2” for images of the buildings.

In addition to the apartment complex, ORA staff observed multiple instances where four-, five-, and seven-story buildings were within 220 yards of Line 1600, including a government complex with seven-story parking garages and multiple four story offices, and other similar locations.

¹⁴ *See Attachment 1*, “Satellite 2” dated March 2016.

¹⁵ *See Attachment 1*, pp. 003-005 for the route of Line 1600, and satellite imagery from 2012 and 2016 showing the development of the complex.

¹⁶ *See* 49 CFR Section 192.5(b)(4). A Class 4 location (the highest class location unit) is any class location unit where buildings with four or more stories above ground are prevalent.

¹⁷ *See* 49 CFR §192.5(a)(3)(i) which shows that a Class 3 location includes a class location unit that has 46 or more buildings intended for human occupancy.

along Line 1600, none of which exceed Class 3.¹⁸ However, the Casa Mira View complex in Attachment 1 shows that at least this area along Line 1600 should be Class 4.

SoCalGas/SDG&E's failure to properly classify the Casa Mira View complex as Class 4 should be found to violate 49 CFR § 192.5, the safety requirement that provides the definitions of class locations. Accurate pipeline classification is critical to any utility's safety program because it determines how frequently inspections must occur to ensure the safety of the pipeline and the surrounding communities.¹⁹ Because Class 4 locations are required to be inspected more frequently than Class 3 locations,²⁰ SoCalGas/SDG&E's use of Class 3 location data at Casa Mira View misleads the Commission as to how often Line 1600 must be inspected in that high density area.

C. Misrepresentations to the Commissioners

During the Commission's May 29th oral argument, a Senior Vice President for SoCalGas / SDG&E, Mr. Jimmie Cho, stated,

Now, the issue of record accuracy, I want to be very emphatic on the record. Our records have been complete, accurate, verifiable, traceable. And the system worked the way it was supposed to work, which is it defaulted to safer values. And we immediately provided that updated information. And there's 50 pages, over 50 pages of reply briefs that detail this situation. So I want to be very clear about that. It's in the record.²¹

On May 31, 2018 ORA asked SoCalGas/SDG&E to provide the actual pipeline safety information underlying their ex parte photos. Though reminded that ORA has broad discovery rights under Cal. Pub. Code § 309.5(e), SoCalGas/SDG&E objected²² and refused to provide the information. While this information is not needed to document

¹⁸ For example, see Exh. ORA-04-C, pdf pp. 21-22. The value was taken by summing the number of rows except for the header.

¹⁹ Class 4 locations are also required to have the greatest reduction in Maximum Allowable Operating Pressure (60%, which is a design factor of 0.4). (49 CFR 192.111). By contrast, Class 3 locations require only a 50% reduction in MAOP (design factor of 0.5). This means that a pipeline in a Class 4 location must be operated at a 10% lower MAOP (all else being equal) than a pipeline in a Class 3 location.

Class 4 locations are also required to have each point on the line with a valve no more than 2.5 miles. A Class 3 location, on the other hand, is only required to a valve every 4 miles. (49 CFR §192.179).

²⁰ 49 CFR §192.705.

²¹ Oral Argument Transcripts (Tr.) page 1468, line 26 to page 1469, line 8 (Cho).

²² See Attachment 5, pp. 015, 017, and 028-037.

SoCalGas/SDG&E's inaccurate statement for purposes of this motion, the information is necessary to understand the full extent of the safety issues along Line 1600, including how frequently the pipeline must be inspected and what the appropriate Maximum Allowable Operating Pressure is for these portions of Line 1600.

Given SoCalGas/SDG&E's misleading statement at oral argument about its safety data, it appears SoCalGas/SDG&E's inaccurate class location data is but one of several instances where they have provided inaccurate safety information.²³

SoCalGas/SDG&E's misrepresentations regarding the accuracy of their safety data undermine the Commission's ability to ensure one of the primary focuses of this proceeding, the safety of Line 1600. As previously requested by ORA and recognized by other parties, an Order to Show Cause is necessary to protect Commission processes and ensure ratepayer and community safety.²⁴ The need for an Order to Show Cause for violations of Rule 1.1 was made all the more obvious and pressing by the misleading statements SoCalGas/SDG&E's Senior Vice President made about its safety data directly to the Commissioners during oral argument.

III. CONCLUSION

An Order to Show Cause is necessary to allow the Commission and parties to evaluate the safety impacts of SoCalGas/SDG&E's misleading statements and omissions regarding its Line 1600 safety data, and SoCalGas/SDG&E's failure to comply with 49 CFR Section 192.5. For example, portions of Line 1600 adjacent to the Casa Mira View apartment complex should be classified as a Class 4 location, despite SoCalGas/SDG&E's statements that no such class locations exist on the pipeline. Given the safety implications of the class location issues, ORA requests that the Commission impose sanctions on SoCalGas/SDG&E in the form of fines, penalties, direction for corrective actions and/or other remedies as appropriate.

²³ For multiple additional examples, see ORA's Opening Brief discussion about SoCalGas/SDG&E's Unreliable Safety Data, pp. 20-36.

²⁴ See for example, Oral Argument Transcripts, p. 1450 Protect Our Communities Foundation. "ORA's detailed and fact-based request for Rule 1.1 sanctions should be granted. In making its decision, the Commission should consider the way in which the applicant has shown bad faith throughout this proceeding."

In support of this motion, ORA provides the following nine attachments:

- Attachment 1 contains a narrative of SoCalGas/SDG&E's statements regarding class location and ORA's review of SoCalGas/SDG&E's ex parte materials. As the narrative discusses, SoCalGas/SDG&E's statements bring into doubt their own claims that no Class 4 locations exist on Line 1600.²⁵ Attachment 1 also includes various images showing one area of Line 1600 (hereafter called "Area A").²⁶
- Attachment 2 contains the excerpts from SoCalGas/SDG&E's ex parte materials on Area A that ORA reviewed.
- Attachment 3 contains articles regarding the construction around Area A.
- Attachment 4 contains the six data responses from SoCalGas/SDG&E to either ORA or SED regarding the class locations on Line 1600.
- Attachment 5 contains ORA's recent data requests about the underlying safety related information underlying its ex parte photos, and SoCalGas/SDG&E's objections to those data requests.
- Attachment 6 contains materials from the Pipeline Hazardous Materials Safety Administration regarding class locations.
- Attachments 7, 8, and 9 include Declarations from Mr. Nathaniel Skinner, Mr. Alan Bach and Mr. Nils Stannik, respectively, regarding the attachments.

Respectfully submitted,

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²⁵ As Attachment 1 shows, SoCalGas/SDG&E stated there are no Class 4 locations on Line 1600, or that there were only Class locations 1, 2, and 3 in 2016 on May 12, June 13, July 15, and twice on August 12, and also on May 22, 2017.

²⁶ Given this new information, ORA is concerned that there may be other Class 4 locations along Line 1600 that SoCalGas/SDG&E have not properly identified.